IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

WP(C).No. 22395 of 2003(N)

PETITIONER:

O.D.SASIDHARAN, KANDAMCHIRA HOUSE,
CHETHIKKODE P.O., KANJIRAMATTOM, ERNAKULAM DIST.,
(NOW WORKING AS SUPERVISOR (OFF-SET), GOVERNMENT
PRESS, VAZHOOR, KOTTAYAM DISTRICT.

BY ADV. SRI.T.K.MARTHANDAN UNNITHAN,
ADV. SRI.K.P.UNNIKRISHNAN.

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE**
SECRETARY, HIGHER EDUCATION, GOVERNMENT OF KERALA,
TRIVANDRUM.

2. **DIRECTOR OF PRINTING, GOVERNMENT CENTRAL**
PRESS, TRIVANDRUM.

3. **DPC (DEPARTMENTAL PROMOTION COMMITTEE)**
(PRINTING DEPARTMENT) REPRESENTED BY THE CHAIRMAN,
DPC, (PRINTING DEPARTMENT), GOVERNMENT OF KERALA,
TRIVANDRUM.

***ADDL.R4. ANIL.V., SUPERVISOR (OFFSET PRINTING),**
GOVT. CENTRAL PRESS, TRIVANDRUM.

***IS IMPLEADED AS ADDL. R4. AS PER THE ORDER DTD. 31/03/2006**
IN I.A. NO. 4775/2006.

BY GOVERNMENT PLEADER SRI. P.N. SANTHOSH,
ADV. SRI.P.N.RAVINDRAN,
ADV. SRI.ELVIN PETER P.J.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/11/2007, ALONG WITH W.P.(C). NO. 20372/2004,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE GOVERNMENT ORDER NO. G.O. (RT). NO. 438/87/H. EDN. DTD. 21/02/1987.

EXT.P.2: COPY OF THE GOVERNMENT ORDER NO. G.O. (MS). NO. 202/87/H. EDN. DTD. 16/07/1987.

EXT.P.3: COPY OF THE JUDGMENT DTD. 25/03/98 IN O.P. NO. 5788/1998 OF THE HONOURABLE HIGH COURT OF KERALA.

EXT.P.4: COPY OF THE ORDER DTD. 22/08/98 ISSUED BY THE DIRECTOR OF PRINTING, GOVT. CENTRAL PRESS, TRIVANDRUM.

EXT.P.5: COPY OF THE ORDER NO. G.O. (RT). 1423/2001/H. EDN. DTD. 17/09/2001 ISSUED BY THE GOVERNMENT OF KERALA.

EXT.P.6: COPY OF THE SPECIAL RULES PUBLISHED UNDER G.O. (MS). NO. 954/59/PD DTD. 05/11/1959 IN K.G. NO.4 5 DTD. 17/11/1959.

RESPONDENT'S EXHIBIT:

EXT.R4.A: COPY OF THE NOTIFICATION DTD. 04/09/2004 PUBLISHING SELECT LIST OF DPC.

//TRUE COPY//

prv.

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).Nos.22395 OF 2003
& 20372 OF 2004

Dated this the 2nd day of November, 2007

JUDGMENT

Petitioners in these writ petitions and the private respondent in W.P(C).No.22395/03 are Government servants. They were governed by the Kerala Government (Presses) Subordinate Service Rules, which came into force with effect from 12.10.1976.

2. With the passage of time, the Press service required various changes with the advent of modernisation. This led the Government to issue executive orders for creation of posts other than those covered by the Subordinate Service Rules. It is submitted that personnel from the existing service was deputed to the new categories created by the executive orders. This, obviously, means that further promotions on the basis of such placements would also have to be governed by the creation of the hierarchy as per the executive orders and not by relying on

the Special Rules. It is also unfortunate that even as of now, the Special Rules have not been amended to gear them up in tune with the changing scenario in the Government Presses. Without making any amendment to the Special Rules, it is also stated in Ext.P7 in W.P(C).20372/04 that even though Special Rules are amended they cannot be made retrospective. One fails to understand how the Government Secretary has come to such a conclusion, because, within the format of the Kerala Public Services Act, it is the prerogative of the State to frame Service Rules, either prospectively or retrospectively, subject to the Constitution and the Laws, including that Act.

3. The impugned decisions, whereby placements have been made or refused to be made, with reference to the Subordinate Service Rules, is illegal in the wake of the fact that the posts are not those falling under those rules to any subsequent executive decisions.

In the result, the decisions impugned in these writ petitions are quashed and the Government are directed to re-consider the entire issue, by treating the posts which do not specifically fall under the Kerala Government (Presses) Subordinate Service Rules as not governed by those rules. The Government is also at liberty to take such decision as may be necessary by amending the Special Rules in accordance with law. However, the claims of the petitioners for promotion to Assistant Superintendent (off-set) from the category of Supervisor (plate making) and Supervisor (off-set) shall be considered and final decision taken within a period of three months from the date of receipt of a copy of this judgment. These writ petitions are allowed as above.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.